New Evidence Suggests Chicago Billionaire "Closely Allied" with the Koch Brothers and Implicated in Funding Climate-Change Denial and Islamophobia Is Anonymous "Dark Money" Donor Behind Renaming of George Mason University's Law School

by Allison Pienta

Over 810 pages of documents produced by George Mason University in October 2019 suggest that that Barre Seid, a Chicago billionaire who has been called an "Angel of the Right" and is "closely allied" with the Koch brothers, is the "anonymous donor" who pledged $20 million over five years to rename George Mason's publicly-supported Law School after the late Justice Antonin Scalia.[1] Mr. Seid has previously been accused of being the $16.8 million funder of the "swing state" distribution of the incendiary Islamophobic film "*Obsession: Radical Islam's War Against the West*" in an effort to block the 2008 election of Barack Hussein Obama. Mr. Seid has also been implicated as the anonymous donor behind the funding of climate change denial projects by the "Heartland Institute." That funding totaled over $6 million (not counting donations after 2012), including a billboard comparing a belief in global warming with the "Unabomber's" manifesto. In both instances, Mr. Seid's anonymous role was only uncovered through investigative reporting by *ProPublica*, *Salon* magazine, *DeSmogBlog*, and the *Daily Kos*. "Mystery of who funded right-wing "radical Islam" campaign deepens"; https://www.desmogblog.com/barre-seid; "The Case for Barre Seid as the Heartland Institute's Anonymous Donor".

The documents that suggest that Mr. Seid is the Scalia Law donor were produced in response to requests under the Virginia Freedom of Information Act for "communications or documents containing the name of the anonymous donor under the March 31, 2016 Grant Agreement, or the name of the lawyer and agent for the anonymous donor." After review of those documents repeatedly led to connections with Mr. Seid, a follow-up request was made for all communications with "Barre Seid." Initially, the University tried to ward off production of the anonymous donor documents by demanding payment of nearly $10,000 for search and production costs and asserting that only the Dean of the Law School could conduct the search because only he knew the identity of the "anonymous donor." At the direction of the Virginia FOIA Advisory Council, the University's Interim President required the Dean of the Law School to provide the name of the donor to the University's FOIA officer to conduct the search. The FOIA officer used the donor's name to conduct the search and redacted the name only after all the documents were collected. When the follow up request was made for all communications with "Barre Seid," Mr. Seid's name *unredacted* in some of the same communications (*see* pp. 400-1 and 743; 680 and 812). Other emails where the donor's name had been redacted were

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[1] The Second Update on the "The Federalist Society's Takeover of George Mason University's Public Law School" incorrectly identifies Rebekah Mercer as the donor. The communications produced in October 2019 conclusively establish that the donor is Barre Seid.

revealed to be related to communications with Mr. Seid about meetings with the Law School's current and former Deans (pp. 481 and 784-89; pp. 483 and 706; pp. 377-78 and 809).

Emails with Barre Seid's Name	***Emails with Barre Seid's Name Redacted***
From: Barre Seid [mailto[redacted] **Sent:** Friday, February 05, 2016 5:42 PM **To:** Silverman, Jerry; Daniel Polsby; 'Henry N Butler' **Subject:** GMU - Jewish Federation of No. America You guys are working on a lot of the same things. Maybe you should get together. Barre	**From:** [redacted].com] **Sent:** Friday, February 05, 2016 5:42 PM **To:** [redacted] Daniel Polsby; Henry N Butler **Subject:** GMU - Jewish Federation of No. America [redacted] [redacted] [redacted]
-------- Original message -------- From: Barre Seid <[redacted]> Date: 06/17/2015 11:02 AM (GMT-08:00) To: Henry N Butler <hnbutler@gmu.edu> Cc: Amber McMullin [redacted], Joan Frontczak [redacted] Subject: Meeting on Friday Henry – You and your group are scheduled to be here Friday at 1:00. Will you have had lunch or would you like us to order something? Options are Jimmy John's fast sandwiches, Chicago pizza, chopped salad… Barre	On Jun 19, 2015, at 4:02 PM, [redacted]> wrote: Dear Dan – Confirming our discussion of today, we are forwarding from Donors Capital Fund $150,000 as the first installment of a three-year commitment to assist you in hiring [redacted] [redacted]

Barre Seid's History of Grants to GMU Before 2016

While a George Mason University press release in 2016 and a response to "media attention" suggested that the funding to rename the Law School "came to George Mason" through an "unexpected" donor "who approached Leonard A. Leo," the Executive Vice President of the Federalist Society, the FOIA documents show long-standing ties between the donor and the Law School's current Dean, Henry Butler, and its former Dean, Dan Polsby, both of whom describe the donor as a "friend" (p. 482, 814). Rather than an "unexpected" approach to Leonard Leo, the documents show that Dean Butler transmitted a "five-year plan" to the donor only five days after Justice Scalia's death (p. 330). From 1998 to 2006, Mr. Seid already had funded $3.1 million in projects at the Law School and the University's Mercatus Center through contributions from his "Barre Seid Foundation."
https://www.desmogblog.com/george-mason-university.

After 2006, Mr. Seid used two donor-advised funds as mechanisms to make the source of an additional $6.9 million anonymous. Altogether, Mr. Seid's contributions to the Law School before the 2016 Grant Agreement totaled over $8.3 million. His contributions supported controversial training of judges by the Law & Economics Center (LEC) and individual faculty hires and salary supplements.

The documents produced under FOIA show:

- After a pledge of $300,000 in January 2000 for "two new institutions for federal judges," Dean Polsby informed the President of the University's Foundation at the start of February 2005 that the same donor was pledging $650,000 "per year" for the Law & Economics Center, and that "[m]ost of this money would pass through to donees external to GMU" (pp. 562 and 456, 560-67). Within days, two checks were received, one for $550,000 and one for $100,000 (p. 559). The Barre Seid Foundation Form 990 shows a contribution of $575,000 to the University Foundation on February 9, 2005. At the end of December, the same donor pledged an additional $975,000, including $325,000 "for the LEC's judges program" (p. 634). In 2007, the Judicial Conference of the U.S. Courts placed limits on such privately-funded judicial education programs, which resulted in the Barre Seid Foundation being listed as a "Funder" for the LEC's judges program.

- After a period of experimenting with donor-advised funds, Barre Seid started using Donors Trust and Donors Capital Fund to make the source of his donations less transparent. "The Case for Barre Seid as the Heartland Institute's Anonymous Donor". A 2008 email from Dean Polsby states "we now have an additional five hundred thousand simoleons [sic] for each of the next three years, which will give us flexibility to pursue our faculty options"; two months later Dean Polsby sent the donor an "update on the four additional faculty" (pp. 528, 530).

- In 2010, Mr. Seid set up the Chicago Freedom Trust (CFT) with the principal officers of Donors Trust and Donors Capital Fund along with Leonard Leo of the Federalist Society serving as trustees. Then-LEC Director Henry Butler met in person with Mr. Seid in March 2011 and transmitted a funding solicitation for "Training" in September 2011 (pp. 502-4, 743). Four days later, an email from the donor to Butler says "$400,000 coming from DT [Donors' Trust] for econ/law and law/econ professor training. Hope to continue yearly" (p. 502).

- In response to a March 2013 email on the "appointment" of a particular professor, the donor tells Dean Polsby "I intend to make 5 yearly contributions of $250,000 each to the Law School [amended five days later to $375,000 per year]" through "Donors Trust" "to fund the compensation and fringe benefits" of the professor. The donor's email stated that "if [name redacted] leaves GMU, the contributions will cease" (pp. 361-63, 371). Six days later, the Law School announced the appointment of Senior Judge Douglas

Ginsburg of the United States Court of Appeals for the District of Columbia as a full-time professor (as a Senior Judge, Judge Ginsburg continues to actively hear and decide cases).

- After commiserating with Dean Polsby on "the ugly apparatus of modern government" and "the administrative welfare state" (p. 806), the donor agrees in February 2014 to "$100K" for a project to address what he describes as "extreme deference" to government agencies under administrative law (pp. 342, 815). On July 14, 2014, then-LEC Director Butler informs Leonard Leo that the conference "for which our friend provided special funding" on "Administration Unbound?" will be held on September 11-12, 2014 (p. 814).

- On June 19, 2015, Mr. Seid met in Chicago at 1:00 pm with incoming Dean Butler, Dean Polsby, LEC Deputy Director Paige Butler (Dean Butler's spouse), and new LEC Director Todd Zywicki (pp. 684, 698-700, 784-89). At 4:02 pm the same day, the Donor sent a message to Dean Polsby: "Confirming our discussion of today, we are forwarding from Donors Capital Fund $150,000 as the first installment of a three-year commitment to assist you in hiring [redacted] [a professor whose name has been redacted]" (p. 481).

The Anonymous 2016 Grant to Rename the Law School and Redefine Its "Mission"

In March 2016, the donor, now believed to be Barre Seid, entered into the $20 million Grant Agreement ($4 million per year for five years) with another $10 million coming from the Charles Koch Foundation that renamed George Mason's Law School after Justice Scalia. The Grant Agreement required twelve faculty to be hired to carry out the School's "Mission," defined in the Agreement as "[r]etain[ing] focus on the study of Law & Economics" and developing "areas of concentration" on "intellectual property, legal history, constitutional studies, administrative law, and the relationship between law and liberty." The March 31, 2016 Grant Agreement deems Dean Butler a "critical part of advancing the School's Mission" and requires that the Donor be notified if the Dean is replaced. The Agreement also requires support for the School's Center that is dedicated to "dismantling the Administrative State" and a new "Center for Liberty & Law." The Grant Agreement installed the Federalist Society's Leonard Leo in an oversight role over the Law School through a newly-created entity called the "BH Fund" (as mentioned, Mr. Leo was already associated with Mr. Seid through his Chicago Freedom Trust). The $4 million annual pledges under the Grant Agreement are conditioned on "annual written proposals" by the University Foundation that the donor must "approve" in his "sole and absolute discretion" before each contribution is due. In an uncanny parallel, Mr. Seid anonymously funded an unsuccessful takeover in 2010 of Shimer College, a small "Great Books" college in Chicago. As with the 2016 Law School Grant Agreement, that takeover included a redefinition of the "Mission" of the college and placement of supporters in trustee positions. https://www.dailykos.com/stories/2010/11/18/921508/-. One of those supporters was George Mason Law Professor F.H. (Frank) Buckley, who was from 1999 to 2010 the Director of the Law & Economics Center that Mr. Seid was funding.

Barre Seid's Meetings and Communications with the Law School's Deans and Faculty

The FOIA documents show that before and after the 2016 Grant Agreement, the Law School's former Dean Polsby and its current Dean, Henry Butler, regularly communicated with Mr. Seid in-person, by telephone, and by electronic communications. There were *eight* in-person meetings in Chicago (pp. 377-78, 483, 549, 698-700, 706, 727-30, 743, 750-51, 775-76, 800, 809). Another group of emails in 2016 shows a representative of the donor asking how much it would cost the Center for the Study of the Administrative State to have a program on "overreach" in "patent jurisprudence" and whether such a program could be covered by the contributions for the renaming of the Law School (pp. 568-69) (Mr. Seid's Chicago companies hold over a dozen patents and have been sued for patent infringement). The requested program took place in November 2017. Other documents show the donor on short notice anteing up $10,000 to provide security for a September 2017 on-campus Federalist Society event with Secretary of Education Betsy DeVos (pp. 68-69, 570). The donor was informed of potential faculty hires (pp. 361-63, 481, 818-20) and was promptly notified when the Law School hired Justice Kavanaugh in March 2019 (p. 233).

There are also communications between Deans Butler and Polsby and Mr. Seid where he connects them with other conservative organizations and individuals at the time he is making grants, using introductions like "You guys are working on a lot of the same things. Maybe you should get together" (pp. 677-80, 766-67, 777-78, 811-12). The communications show both Deans as solicitous of Mr. Seid's views. Dean Butler refers to demands to reveal contributions to Donors Trust as "the essence of a witch hunt," and Dean Polsby one-ups him by saying, "If they have never given a dime to Donors Trust then f--k 'em" (p. 681). Dean Butler also caters to Mr. Seid's views against climate change science (pp. 766-69, and 752-55, 770-74, 777-80).

The FOIA documents show that despite Dean Butler's assertion that only he knew who the anonymous donor was, the donor's identity has actually been known to many other faculty and University officials, including former Dean Polsby, President Angel Cabrera, Professors Joshua Wright, Frank Buckley, and Michael Greve (pp. 205, 279, 551, 631-32). Mr. Seid had previous associations with Professors Buckley and Greve from his funding of the Illinois-based "Heartland Institute" and the takeover of Shimer College, which both involved Professor Buckley, and his funding of the Center for Individual Rights which Mr. Greve co-founded, and the Competitive Enterprise Institute where Mr. Greve worked for a decade. A 2013 email also shows Professor Michael Krauss, a product liability law expert, transmitting an email to Dean Polsby whose subject line and message has been redacted because they relate to the identity of the donor. Dean Polsby forwards that email to Associate Dean Craig Lerner with the message "We shd discuss in person" (p. 485). Professor Todd Zywicki, the Executive Director of the Law & Economics Center from 2015 to 2017, and Paige Butler, the Deputy Executive Director of the LEC, also traveled to Chicago to meet with Mr. Seid (pp. 698-700, 787).

Mr. Seid's financial support and lines of communication within George Mason University extend beyond the Law School to the Economics Department. The *Daily Kos* reported that before 2004, Mr. Seid gave over $2.1 million to George Mason's Mercatus Center, which is associated with the Economics Department. A 2011 email to Donald Boudreaux, a former Chair of the Economics Department who wrote a 2009 Wall Street Journal op-ed titled "Learning to Love Insider Trading" said, "there will be an anonymous donation in your name given to your department. I don't know how you can put out so many interesting comments – keep it up" (p. 628).

December 2019

Barre Seid's Meetings with George Mason Law Officials and Grants to the Law School: 2000-2019

2000

January 2000: Then-Law & Economics Center (LEC) Director Frank Buckley is credited for "work in acquiring [$300,000] contribution" from new Donor, now revealed as Barre Seid, for "two new institutions for federal judges."

2005

Feb. 2005: Same Donor pledges $650,000 "per year" for the LEC. "[S]eparate account" is created so "[t]he donor and Frank [can] isolate the transactions from the rest of the LEC operation."

Dec. 2005: Same Donor pledges $975,000, including $325,000 "for the LEC's judges program."

2007

Sept. 2007: Dean Dan Polsby meets with Donor.

2008

Feb. 2008: Donor pledges "five hundred thousand simoleons for each of the next three years" "to pursue … faculty options."

April 2008: Dean Polsby sends Donor update on "the 4 additional faculty" hired.

2011

March 2011: Then-LEC Director Henry Butler meets with Barre Seid in Chicago.

Sept. 2011: LEC Director Butler sends funding solicitation on "Training" to Donor.

Sept. 2011: Four days later, Donor pledges "$400,000 coming from DT [Donors Trust] for econ/law and law/econ professor training. Hope to continue yearly."

2012

Oct. 2012: Dean Polsby meets with Mr. Seid in Chicago and attends Seid's "CFT" (Chicago Freedom Trust) meeting.

2013

Jan. 2013: Dean Polsby and LEC Director Butler meet with Mr. Seid in Chicago.

March 2013: Donor pledges "5 yearly contributions" of $375,000 "to fund the compensation and fringe benefits of [name redacted]." Six days later, Law School announces appointment of Senior Judge Douglas Ginsburg as full-time professor (Senior Judge Ginsburg is still deciding appellate cases).

2014

Jan. 2014: Dean Polsby and LEC Director Butler meet with Mr. Seid in Chicago.

Feb. 2014: Donor pledges "$100K" for project to address "extreme deference" to government agencies by courts.

July 2014: LEC Director Butler informs Leonard Leo about conference "for which *our friend* provided special funding" on "Administration Unbound."

2015

June 2015: Mr. Seid meets with Dean Polsby, incoming Dean Butler, LEC Deputy Director Paige Butler, and new LEC Director Todd Zywicki.

June 2015: On the same day, Donor pledges "$150,000 as the first installment of a three-year commitment to assist you in hiring [name redacted]."

Sept. 2015: Dean Butler meets with Mr. Seid in Chicago.

2016

Feb. 2016: Dean Butler transmits "Five Year Plan" for Law School to Donor.

March 2016: Donor enters into $20 million Grant Agreement ($4 million per year for five years, with first payment due by July 1) to rename George Mason's Law School after Justice Scalia and require twelve faculty to be hired to carry out School's redefined "Mission," including on "intellectual property."

May 2016: Donor's representative meets with Professor Adam Mossoff about program on "overreach" in "patent jurisprudence."

Oct. 2016: Dean Butler meets with Mr. Seid in Chicago.

2017

March 2017: Dean Butler sends update on Law School and Centers, including on potential hires, to Leonard Leo who is "third-party beneficiary" under Donor's Grant Agreement.

May 2017: Payment of $4 million due from Donor under Grant Agreement if he "approves" University Foundation's annual "written proposal."

Sept 2017: Donor gives $10,000 for security costs for on-campus Federalist Society event with Secretary of Education Betsy DeVos.

Nov. 2017: Donor's requested patent program "Perspectives on the PTAB: The New Role of the Administrative State in the Innovation Economy" takes place.

2018

May 2018: Payment of $4 million due from Donor under Grant Agreement if he "approves" Foundation's annual "written proposal."

2019

Jan. 2019: Scalia Law "Mid-Year Update" provided to Donor including on new faculty and potential faculty hires.

March 2019: Dean Butler notifies Donor of hiring of Justice Kavanaugh.

May 2019: Payment of $4 million due from Donor under Grant Agreement if he "approves" Foundation's annual "written proposal."